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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,431	01/02/2001	Robert S. Young JR.	ASF98064 (021971.0144)	1177

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Raymond M Galasso
Simon, Galasso & Frantz PLC
P O Box 26503
Austin, TX 78755-0503

EXAMINER

ROSENBERGER, RICHARD A

ART UNIT PAPER NUMBER

2877

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/753,431

Applicant(s)

YOUNG ET AL.

Examiner

Richard A Rosenberg

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19, 21-23 is/are allowed.
- 6) ☒ Claim(s) 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by well-known knowledge in the art, as characterized by the discussion of prior art in the instant specification.

Claim 20 is a product-by-process claim, defining a product, a digital image comprising a plurality of digital pixel values residing on a computer readable medium, in term of a process of producing the product, with process steps of capturing in a particular manner and adjusting based upon the capturing.

A product by process claim is not limited to the process, but only to the result of the process; see MPEP 2113.

Here the product is clearly known in the art. The product is nothing more than a series of digital pixel values on a computer readable medium. Digital images in the form of pixel values stored on a medium readable by a computer are known in the art; the instant specification, in discussing the prior art on page 2, notes that prior art systems used "digital image data".

There appears to be no way in which the digital image data or the sort known in the art can be examined and, from that examination, a determination made as to whether or not a correction was made by the claimed method or another method, or, for that matter, if a correction was made at all. Thus the method steps do not limit the image in a patentable manner.

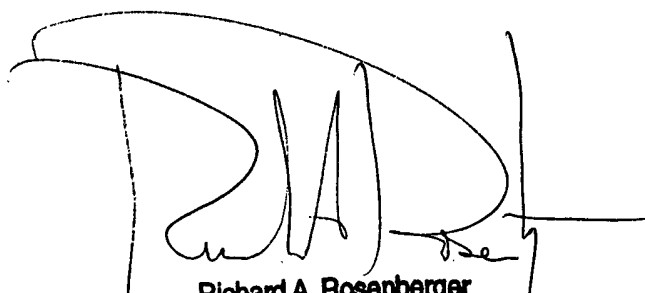
3. It appears that claims 1-19 and 21-23 are allowable. The art does not appear to teach or suggest the claimed system and method, in particular a system or process for capturing data from light from an unexposed area of a film illuminated by a light source while the film has a developer chemical applied thereto and using this data to image data from the film for sensor and illumination non-uniformities.
4. Kachelries (US 4,345,831) shows a system in which there is a photodetector responsive to the intensity of the light source to generate a background level for correction of data from a film being developed to correct for possible variations (non-uniformities) in the light source or the photodetector response (column 3, lines 9-10). The reference does not appear to teach or suggest using data based upon reflectance from an unexposed area of film while developer solution is applied to it, rather, the signal is representative of the signal when no film is present; for example, see claim 1 of the reference.

5. Papers related to this application may be submitted to Group 2800 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 308-7722.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. A. Rosenberger whose telephone number is (703) 308-4804. The examiner's normal work schedule is 8:00 to 4:30 eastern time, Monday through Friday.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger
30 May 2003



Richard A. Rosenberger
Primary Examiner